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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,910	07/10/2001	John C. Parrott	PS-001.JP.P	9647

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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01/14/2003

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## Office Action Summary

Application No.

09/902,910

Applicant(s)

PARROTT, JOHN C.

Examiner

Jennifer E. Novosad

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3634

### DETAILED ACTION

This final Office action is in response to the amendment filed November 25, 2002 (Paper No. 3). *Accordingly*, claims 1-20 have been canceled.

#### *Drawings*

The corrected or substitute drawings were received on November 25, 2002 (Paper No. 3).

These drawings are approved. *However*, in the amendment filed therewith, applicant inserted the numeral "1" into the specification, e.g., on page 10, line 32. *Accordingly*, the drawings are

objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the

following reference sign(s) mentioned in the description: 1. A proposed drawing correction or

corrected drawings are required in reply to the Office action to avoid abandonment of the

application. The objection to the drawings will not be held in abeyance.

#### *Claim Objections*

Claims 21, 36-38, and 40 are objected to because of the following informalities:

In line 2 of claims 21, 36, and 37, and line 3 of claim 38, it is suggested that a --,-- (comma) be inserted after "cabinet".

In line 4 of claim 38, and line 6 of claim 40, it is suggested that a --,-- (comma) be inserted after "area".

In claim 38, line 5, it is suggested that a --:-- (colon) be inserted after "comprising".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 39 is rendered indefinite since the claim recite a "kit" which is simply a list of elements. *However*, it is unclear what specific structure of claim 25 is intended to be claimed as part of claim 39 since claim 25 recites more than a "list" of elements, i.e., claim 25 links the structural elements together. *Accordingly*, it is suggested that the specific structure intended to be claimed in claim 39 be incorporated therein.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 21, 23-27, 29, 30, 35, 39, 36, 38, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Layne '548 (Figure 1).

Layne '548 discloses a thermal barrier (Figure 1) comprising a translucent material (see column 32-34) curtain (16 and 18 collectively) having vertical slits dividing the curtain into strips (14); an attachment device (24, 26, 28, and 34 collectively) for securing the curtain (16 and 18) to an upper surface of the cabinet (10) which is defined by a mounting means (26 and 28) defining a bracket and a connecting rod (at 34) which is rotatably affixed to the mounting means (see Figure 3); a displacement apparatus (at 30) for displacing at least one the flaps from

Art Unit: 3634

alignment with the adjacent flaps (see Figure 3), i.e., the left flap of 16 is out of alignment with the right flap of 18, defining a protrusion (see Figure 2); and the curtain having stabilizing adapters (in 20) defining weights. Layne '548 is also considered to teach a kit comprising a thermal barrier as called for in claims 18 and 19. Layne '548 is further considered to teach the structure capable of performing the method step of reducing the temperature in a cabinet.

Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Layne '548 (Figure 6).

Layne '548 discloses a thermal barrier (Figure 6) comprising a translucent material (see column 32-34) curtain having vertical slits dividing the curtain into strips (14); an attachment device (62 and 52) for securing the curtain to the side of the cabinet; a displacement apparatus (56 and 58 – see Figure 8) for displacing at least one the flaps from alignment with the adjacent flaps (see Figure 6).

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne '548 as applied to claims 21, 23-27, 29, 30, 35, 39, 36, 38, and 40 above, and further in view of Finkelstein *et al.* '237.

Layne '548 discloses the barrier as advanced above.

The claim differs from Layne '548 in requiring the flaps are overlapping.

Finkelstein *et al.* '237 teach a thermal barrier which comprises overlapping (at 24) flaps (11 and 11').

Art Unit: 3634

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the barrier of Layne '548 with overlapping flaps, to decrease the loss of air through the slits thereby producing a more energy efficient barrier.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne '548, alone.

Layne '548 discloses the barrier as advanced above.

The claim differs from Layne '548 in requiring the connecting rod to be length adjustable.

Although Layne does not disclose the rod as being length adjustable, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have provided the barrier of Layne '548 with a length adjustable rod for ease in assembly.

*Allowable Subject Matter*

Claims 31; 32; 33; and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to show or suggest a thermal barrier as called for in claim 29, whereby the displacement apparatus defines a motor and a light sensor which activates the motor to rotate the connecting rod causing a flap to be moved out of alignment with adjacent flaps (see claims 31 or 32) or whereby the displacement apparatus defines an activation shaft connected to the connecting rod (see claims 33 and 34) which activates the connecting rod to rotate and

Art Unit: 3634

thereby causing a flap to be moved out of alignment with adjacent flaps, as specifically called for in the claimed combinations in claim 31, 32, 33, and 34.

### ***Response to Arguments***

Applicant's arguments filed November 25, 2002 (Paper No. 3) have been fully considered but they are not persuasive.

In response to applicant's argument (in the last sentence of the last full paragraph on page 15) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the individual flaps) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. It is noted that applicant merely recites that "applicant respectfully disagrees" with the rejections (see the last sentence of the second and third full paragraphs on page 16).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



Art Unit: 3634

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.



Jennifer E. Novosad/jen  
January 9, 2003

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600